

RECEIVED 30 JAN 2006

PC1 -  
18



Attorney Docket No. 3583 P 007

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re U.S. Patent Application Of:  
Michael O'REGAN, Ian DEAKIN  
and Robert MULLINS

Application No. 10/534,206

Filed: May 6, 2005

For: SYSTEM FOR BILLING RATING AND  
SELECTION OF ACCOUNTS

)  
)  
)  
)  
) Group Art Unit:  
)  
) Examiner: Unassigned  
)  
)  
)

**PETITION UNDER 37 C.F.R. § 1.47(a)  
TO SUBMIT DECLARATION  
ON BEHALF OF AN UNAVAILABLE INVENTOR**

MAIL STOP MISSING PARTS  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicants, Michael O'Regan and Ian Deakin hereby submit this Petition for Unavailability of Inventor under 37 C.F.R. § 1.47(a). The above-referenced Application was filed with the U.S. Patent and Trademark Office on May 6, 2005, and is a national filing under 35 U.S.C. 371 from PCT/IB03/00150 filed November 6, 2003. Declarations were not submitted with the filing of the application. A Notice to File Missing Parts of Nonprovisional Application issued citing the missing Declaration on November 28, 2005. In response to the Notice, executed Declarations signed by Michael O'Regan and Ian Deakin are being submitted. To date, however, Applicant Robert Mullins is unavailable and has not yet signed a Declaration. Pursuant to 37 C.F.R. 1.47(a), Applicants submit that diligent efforts were made to reach Mr. Mullins for the purpose of signing the Declaration. After such efforts, however, Applicants have been unable to obtain Mr. Mullin's signature on a Declaration. Thus, he is a non-signing inventor.

The following facts are relied upon to establish that a diligent effort and *bona fide* attempt was made to reach Applicant Robert Mullins:

02/01/2005 RFEKADU1 00000029 230280 10534206  
01 FC:1463 70.00 DA 130.00 OP

01/31/2006 RFEKADU1 00000045 10534206  
01 FC:1464 130.00 OP

1. During the international phase of the application, counsel for the applicant company (CMG IPR Telecommunications B.V., now LogicaCMG Group) submitted a letter explaining the absence of the executed Power of Attorney forms. The letter states that repeated, unsuccessful efforts were made to locate the inventors after they left the applicant company. (Exhibit A).

2. The services of Mr. Arthur Cox, an specialist in employment law, was engaged by the applicant company, to locate the missing inventors. Inventors Michael O'Regan and Ian Deakin were located and executed the enclosed Declarations.

3. Mr. Cox sent by courier a letter dated 12 December 2005 to the third inventor, Mr. Mullins, at his last known address. (Exhibit B). The letter refers to email correspondence of 7 November 2005 from Mr. Mullins to Jo Wall of Logica CMG and indicates Mr. Mullins' refusal to sign the Declaration. The letter then sets forth Mr. Mullins' obligations to sign the Declaration for the US application, including pursuant to an Assignment entered into on 29 October 2002, assigning all right title and interest in the invention to the applicant company. (Exhibit C).

4. As of the date of this Petition, there is no indication that Mr. Mullins is willing to sign the Declaration.

5. According to Logica CMG's records, the last known address of the non-signing inventor, Robert Mullins, is: 12 Beechwood Close, Silversprings, Clonmel, Co. Tipperary, Ireland.

Thus, Applicants Michael O'Regan and Ian Deakin respectfully request this Petition be granted. Please contact the undersigned attorney with any questions concerning this Petition.

Page 3

The fee set forth in 37 CFR §1.17(h) is submitted herewith. Please charge any additional fees or credit any overpayments associated with this Petition to our Deposit Account No. 23-0280.

Respectfully submitted,

Date: January 25, 2006

By: Monique A. Morneault  
Monique A. Morneault, Reg. No. 37,893  
Customer No. 23424  
Wallenstein Wagner & Rockey, Ltd.  
311 S. Wacker Drive, 53rd Floor  
Chicago, Illinois 60606-6622  
(312) 554-3300

---

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is, on the date shown below, being deposited with the United States Postal Service, with first class postage prepaid, in an envelope addressed to: Mail Stop Missing Parts, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 25, 2006.

Susan M. Franklin  
Susan M. Franklin (238784)


**TOMKINS**

EUROPEAN PATENT ATTORNEYS  
COMMUNITY TRADE MARK ATTORNEYS

Telephone +353 1 660 5033  
Telephone +353 1 202 6700  
www.tomkins.com

Tomkins & Co  
5 Dartmouth Road, Dublin 6  
Ireland

Fax +353 1 660 6920 (Patents)  
Fax +353 1 668 1387 (Trade Marks)  
post@tomkins.com

Also at Munich  
The Controller of Patents, Designs & Trade Marks  
Government Buildings  
Hebron Road  
Kilkenny  
Attn.: Ms Diane Dwyer

Your reference

Our reference

Date

PN964PCT/ML/COB

30 April 2004

Dear Sirs

**Re: International (PCT) Patent Application No. PCT/IE03/00150  
of CMG IPR Telecommunications B.V.,**

We refer to the above PCT patent application, our letter of 22 March 2004 and subsequent telephone conversation between Michael Lucey of this office and Diane O' Dwyer.

In our letter we indicated that the Applicant is unable to locate the three inventors as they have all left the company. The Applicant "CMG IPR Telecommunications B.V." is now part of the LogicaCMG Group. Every effort has been made to date to contact the three inventors in order for them to sign the Power of Attorney forms. Despite repeated efforts by LogicaCMG and Tomkins & Co., Agents for the Applicant, to contact the inventors by registered post, the Applicant, LogicaCMG, have been unable to contact the inventors successfully.

Accordingly, we request under Rule 4.15(b) PCT that the requirement for filing the inventor's Power of Attorneys to be held in abeyance until further notice. We hereby request a further extension of time under Rule 26.2 PCT if the above statement is not a satisfactory explanation to why the inventor's Power of Attorneys have not been submitted.

Yours faithfully,

**Michael Walsh**  
Tomkins & Co.

Peter Shortt BCL Dip Eur Law \* · Michael Walsh BE MEd Sc CEng \* · Michael Kiernan BL Dip Eur Law MITMA · Gerald Nolan RTMA  
Michael Shortt BL Dip Eur Law RTMA · Christina Gates BSc(Hons) PhD \* · Simon Gray DipLS BBS MITMA · Cathal Lane BSc(Hons) \* · Niall Rooney LLB Solic RTMA  
Seamus Doherty DipLS RTMA · Sinéad Dunne MSc RTMA · Siobhán Kavanagh DipLS BSc(Mgt) RTMA · Deirdre Naessens DipLS RTMA  
Consultant: Andrew Parkes MA RTMA \* Financial Controller: David Gardiner BBS FCA \* European Patent Attorney/Chartered Patent Attorney

06/21/2005 TUE 09:19 [TX/RX NO 7080] 003

Exhibit A



# ARTHUR COX

EARLSFORT CENTRE, EARLSFORT TERRACE, DUBLIN 2  
TEL +353 1 618 0000 FAX +353 1 618 0618 DX 27 DUBLIN  
mail@arthurcox.com www.arthurcox.com

BELFAST  
CAPITAL HOUSE, 3 UPPER QUEEN STREET  
BELFAST BT1 6PU  
TELEPHONE +44 28 9023 0007  
FAX +44 28 9023 3464

LONDON  
29 LUDGATE HILL  
LONDON EC4M 7JE  
TELEPHONE +44 20 7213 0450  
FAX +44 20 7213 0455

NEW YORK  
570 LEXINGTON AVENUE 28TH FLOOR  
NEW YORK, NY 10022  
TELEPHONE +1 212 759 0808  
FAX +1 212 688 3237

CONFIDENTIAL

CONFIDENTIAL

EOG/eog  
Direct Dial : 618 0693

12th December 2005

## BY COURIER

Robert Mullins  
12 Beechwood Close  
Silversprings  
Clonmel  
Co. Tipperary

Re: Nationalisation of Patent Application  
Our Client: Logica CMG

Dear Robert

We refer to your email of 7<sup>th</sup> November 2005 to Jo Wall of our client, Logica CMG, regarding the nationalisation of patent PCT/IE2003/00150. We regret the position you have adopted but will set out certain facts below that might help to clarify matters.

You will recall that you entered into an Assignment agreement on 29<sup>th</sup> October 2002, over and above similar terms which appeared in your Terms and Conditions of Employment. We attach a signed copy of the Assignment for your convenience. The relevant section of this agreement provides as follows:

### *NOW THIS ASSIGNMENT WITNESSETH*

- The Inventors as Trustees hereby assign to the Assignees absolutely the Invention, any improvements in or modifications thereof, and any know-how relating thereto together with all rights and interest in the same and all rights and powers to make application for patent in the name of the Assignees, or in the name of its nominee, in Ireland and in any other country of the world whether under the Patent Co-operation Treaty or otherwise in respect of the Invention or improvements in or modifications thereof, together with all rights and benefits arising therefrom under the International Convention for the Protection of Industrial Property or the Treaty Establishing the World Trade Organisation.*

JAMES O'DWYER DANIEL E. O'CONNOR ROBERT BORTON JOHN V. O'DWYER RONAN WALSH DONAGH CROWLEY JOHN S. WALSH MICHAEL MEEHAN JOSEPH LEYDEN  
WILLIAM JOHNSON EUGENE McCAGHE NICHOLAS G. MOORE DECLAN HAYES DAVID O'DONOHUE COLIN DRAGAN CARL O'SULLIVAN ISABEL FOLEY JOHN BLADE CONOR McDONNELL  
PATRICK McGLOTHLIN GRAINE HENNESSY SEAMUS GIVEN COLIN BYRNE CAROLINE DEVLIN CIARÁN BOLGER GREGORY GLENN DAVID FOLEY STEPHEN HIGARTY  
DECLAN DUGLASS SARAH CONNOLLY KATHLEEN GARRETT PAUL RAO Ó RIORDÁIN ELIZABETH BUTTWEILL WILLIAM DAY ANDREW LEMMY JOHN MENTON PATRICK O'BRIEN  
ORLA O'CONNOR BRIAN O'GORMAN MARK SAUNDERS MARK BARR JOHN MATSON DEBORAH SPENCE MARGARET MURDOUSEY KEVIN MURPHY CORINAC KISSANE  
LEAM CORNELI RAYMOND HURLEY KEVIN LANGFORD EVE MURPHY SIONA RAFFERTY PHILIP SMITH KENNETH EGAN JOHN GLACKIN BRYAN STRALIAN  
HUGH O'DONNELL CONOR HURLEY TED WILLIAMS ALEX McLEAN GLENN BUTT NIAV O'HIGGINS FRONA O'NEILL

CONSULTANTS: PAUL McLAUGHLIN IAN A. SCOTT JOHN G. FISH PETER McLAUGHLIN DR. MARY REDMOND DR. YVONNE SCANNELL DR. ROBERT CLARK

Exhibit B

2. *The Inventors hereby covenant with the Assignees as follows:*
- (i) *that they will (so far as necessary) permit and enable the Assignees to apply for and will take all reasonable steps to assist the Assignees or its nominee in obtaining the grant of patent or like protection in respect of the Invention hereinbefore assigned in any territory as may be required by the Assignees*
  - (ii) *that they will at the request and cost of the Assignees execute and do all such documents, acts and things as may be necessary for the purpose of sub-paragraph (i) hereof and for vesting any relevant invention, application for patent, patent, know-how, copyright or design in the Assignees or its nominee absolutely.*
3. *The Inventor hereby irrevocably appoints the Assignees as their Attorney in their name to execute and do any document act or thing which may be necessary to comply with the provisions of Clause 2 hereof.*

On the basis of the above, we again request that you sign the attached Declaration for the US Patent Office, so as to avoid being in breach of your Assignment agreement.

We trust that further action can be avoided and look forward to your immediate cooperation. Should we not hear from you by Friday next, 16<sup>th</sup> December 2005, our client will take such steps as are necessary to protect its interests.

Yours faithfully

  
ARTHUR COX

**ASSIGNMENT**

**THIS ASSIGNMENT** effective the <sup>29</sup> day of *October*, 2002

**BETWEEN**

**31 OCT 2002**

**MICHAEL O'REGAN**, a citizen of Ireland, of 27 Dun Eoin,  
Carragline, Co. Cork, Ireland

**IAN DEAKIN**, a British subject, of Cornody, Coachford, Co. Cork,  
Ireland

**ROBERT MULLINS**, a citizen of Ireland, of 12 Beechwood Close,  
Silverprings, Clonmel, Co. Tipperary, Ireland, (hereinafter called "the  
Inventors") of the one part,

**CMG TELECOMMUNICATIONS IRELAND LIMITED**, an Irish  
Company, of Unit 4, University Technical Centre, Curraheen Road,  
Co. Cork, Ireland, (hereinafter called "CMG") of the second part, and

**CMG IPR TELECOMMUNICATIONS B.V.**, a Dutch Company, of  
Merweplein 5, 3432 GN Nieuwegein, Netherlands, (hereinafter called  
"the Assignees") of the third part,

**WHEREAS** the Inventors claim to be the true and first inventors of an  
invention relating to a " A BILLING RATING AND ROUTING  
SYSTEM" (hereinafter referred to as the "Invention") and for which a  
Patent Application is about to be filed

**AND WHEREAS** the Invention was made by them out of and in the  
course of their employment with CMG

**AND WHEREAS** the Inventors hold the Invention and all patents and  
other rights and powers obtainable and exercisable in respect thereof in  
trust for CMG

**AND WHEREAS** CMG has directed the Inventors to assign to the Assignees all their right title and interest in and to the said Invention and Patent Application

**NOW THIS ASSIGNMENT WITNESSETH**

1. The Inventors as Trustees hereby assign to the Assignees absolutely the Invention, any improvements in or modifications thereof, and any know-how relating thereto together with all rights and interest in the same and all rights and powers to make application for patent in the name of the Assignees, or in the name of its nominee, in Ireland and in any other country of the world whether under the Patent Co-operation Treaty or otherwise in respect of the Invention or improvements in or modifications thereof, together with all rights and benefits arising therefrom under the International Convention for the Protection of Industrial Property or the Treaty Establishing the World Trade Organisation.

2. The Inventors hereby covenant with the Assignees as follows:

(i) that they will (so far as necessary) permit and enable the Assignees to apply for and will take all reasonable steps to assist the Assignees or its nominee in obtaining the grant of patent or like protection in respect of the Invention hereinbefore assigned in any territory as may be required by the Assignees

(ii) that they will at the request and cost of the Assignees execute and do all such documents, acts and things as may be necessary for the purpose of sub-paragraph (i) hereof and for vesting any relevant invention, application for patent, patent, know-how, copyright or design in the Assignees or its nominee absolutely.



3. The Inventors hereby irrevocably appoints the Assignees as their Attorney in their name to execute and do any document act or thing which may be necessary to comply with the provisions of Clause 2 hereof.

**AND IT IS HEREBY CERTIFIED** that the transaction hereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value or the aggregate amount or value of the consideration exceeds €6, 350 (six thousand three hundred and fifty Euros).

**IT IS HEREBY CERTIFIED** that this instrument is a conveyance or transfer on any occasion, not being a sale or mortgage

**IN WITNESS WHEREOF** this Assignment has been executed the day and year first herein written.

**SIGNED SEALED and DELIVERED**

by MICHAEL O'REGAN

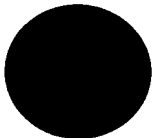
in the presence of

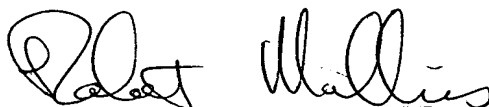


Witness



MICHAEL O'REGAN

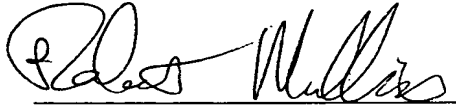




Witness

by IAN DEAKIN

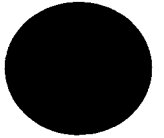
in the presence of

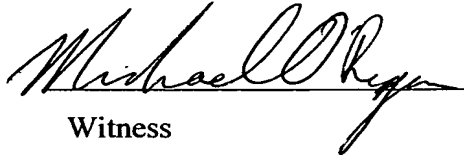


Witness



IAN DEAKIN





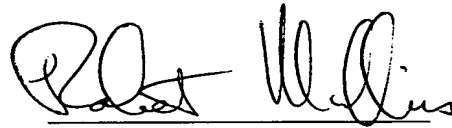
Witness

by ROBERT MULLINS

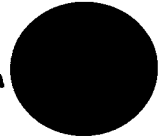
in the presence of



Witness



ROBERT MULLINS

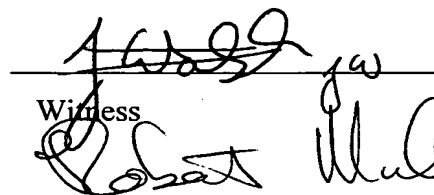




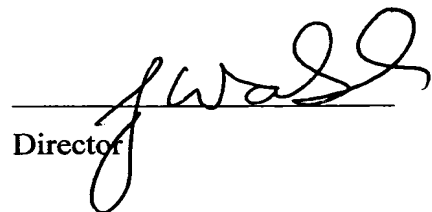
Witness

Executed on behalf of

CMG TELECOMMUNICATIONS IRELAND LIMITED



Witness

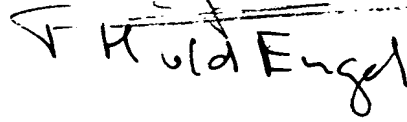


Director

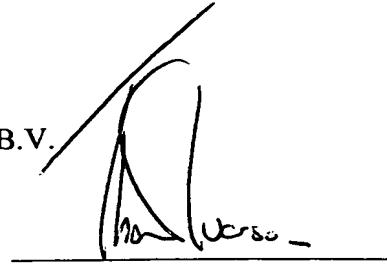
Executed on behalf of  
CMG IPR TELECOMMUNICATIONS B.V.



Witness



F. H. van der Engel



Witness